Wheeling v. *Campbell*, *supra*. But the other view seems more sound. The people are sovereign, and the city, after all, represents the people just as the state does; and it must be admitted that allowing adverse possession to give title would cause no less inconvenience in the case of a city street than in that of a state highway. One eminent author, in maintaining the position here set forth, has made one qualification. If a man has innocently occupied public land, and the city by its acts has led him to believe that the land is his, and its deprivation would entail great loss on him, then the city should be equitably estopped to set up its claim. DILL., MUN. CORP., 4 ed., § 675. See 15 HARV. L. REV. 737. With this exception, therefore, it seems that the purely public rights of a municipal corporation should not be barred; but that those of a *quasi* private nature should be treated like the rights of private persons or corporations.

EFFECT OF THE ABSORPTION OF A STATE UPON ITS EXISTING TREATIES. — Much learning and ingenuity have been displayed by publicists on the interesting question of the assumption of the debts of a state or territory, when it is absorbed or ceases to hold a place in the family of nations; but the equally interesting question as to what becomes of its treaty obligations has received only passing attention.

So long as the status of the contracting parties remains the same, it would seem that a treaty once lawfully contracted by free and capable parties should continue to exist unless some period for its termination is fixed by the treaty itself, or unless there has been a breach by one party which has been acted upon by the other. When, however, one of the contracting parties changes its political status, the question of the continuance of the treaty relation is affected not only by the nature of the change in the status, but also by the nature of the treaty obligation. It would seem to be clear that when a state or territory loses all individuality as a sovereignty, and becomes incorporated into the territory of another, then the treaty obligations of the state so incorporated will end, *ipso facto*. On the other hand, where a state joins others to itself for the purpose of forming a new single state, merely changing the name and size of the original, but substantially preserving its identity, then it would seem that the treaty obligations should continue in force. Furthermore, it would appear that when a state, retaining its separate government and local law, becomes a part of a confederate state or federated union, all treaties made by that state should remain binding unless the nature of the treaty obligation is such that it could not reasonably be carried out by the state itself or by the newly formed state.

A few months ago, the Imperial German Consul at Chicago sought the arrest and commitment, under Treaty of 1852 between the United States and the Kingdom of Prussia, of a fugitive from Prussia accused of uttering forged certificates. On application for the writ of *habeas corpus* the main contention of the prisoner was that the treaty was terminated by the formation of the German Empire in 1871. The Supreme Court of the United States affirmed the order of the District Court remanding the prisoner for extradition. *Terlinden* v. *Ames*, 22 Sup. Ct. Rep. 484. A short ground for supporting the case is this: the question whether an executory treaty such as an extradition treaty is in force, is a political question, and on such a question the judicial department is bound by the

decision of the executive department. *Foster* v. *Neilson*, 2 Pet. (U. S. Sup. Ct.) 253, 314; *Mighell* v. *Sultan of Johore*, [1894] 1 Q. B. 149. The Executive Department of the United States Government has recognized the treaty as being in force. TREATIES AND CONVENTIONS, 921 (1889); TREATIES IN FORCE, 520 (1899).

The case may also be supported on the principles set forth above. The Kingdom of Prussia has remained a distinct entity, and is capable under the Constitution of the German Empire of carrying out its obligations; and even though technically the adoption of that constitution was a breach of the treaty, yet the United States never acted upon it. Furthermore, an extradition treaty is not the kind of treaty a state after such a change in its political status cannot reasonably be expected to carry out, for its execution involves purely ministerial acts, and its object, the mutual helpfulness of returning fugitives from justice, is as desirable after the change as before. Only one other case involving this question has arisen in this country, and in that case the decision was the same. *In re Hermann Thomas*, 12 Blatchf. (U. S. Circ. Ct.) 370. A number of cases have come up in the courts of France and Italy growing out of the union of the Italian states in 1860. Almost without exception the courts have held that the Treaty between France and Sardinia contracted in 1760 remains binding. *Inconomidis* c. *Coude*, 6 CLUNET 69; *Paris*, PALAIS [1867] 275; *Turin*, GIURISPRUDENZA [1865] 240; *Turin*, LEGGE [1876] 853. A few publicists have discussed the question, but they are not unanimous. See R. LE BOURDELLÈS, De l' application du traité du 24 Mars 1760 entre la France et la Sardaigne, 9 CLUNET 389, 390 *accord;* PASQUALE FIORE, De l'execution des actes et des jugements étrangersen Italie, 5 CLUNET 235, 244 *contra.*

LEGISLATIVE CONTROL OVER MUNICIPAL CORPORATIONS. — The question of the extent of legislative control over municipal corporations has occasioned a square conflict of opinion among the courts of this country. One line of cases by decisions or *dicta* has laid down the broad proposition that municipal corporations are the creatures of the legislature, and except for constitutional limitations, expressed or clearly implied, entirely subject to its control. *Commonwealth* v. *Moir*, 199 Pa. St. 534. On the other hand, in many states the doctrine has been established that municipal corporations cannot be deprived of the right to local self-government; and this view is rested upon either one of two grounds: implied constitutional guarantee, or implied reservation to that effect. *People* v. *Hurlbut*, 24 Mich. 44; see *The Right to Local Self-Government*, 13 & 14 HARV. L. REV. The result reached in this second class of cases commends itself as being in accordance with the spirit of our institutions and prevailing views of political expediency, but it is doubtful whether it can be supported upon principle. The constitutionality of an act must be determined by reference to the constitution itself, and while undoubtedly certain restrictions upon the power of the legislature may be implied from the language of that instrument, it is only where the implication is strong and clear that the courts are justified in asserting its existence. See 15 HARV. L. REV. 531.

Even those courts that have championed the right of the municipality to self-government have confined that right to matters of purely local